# REMARKS

## I. Current Status of the Application

Claims 1 – 3, 5 – 7, 9 and 10 are currently pending in the present application, with claim 1 as the sole independent claim. The Applicants have requested amendments to claim 1, as noted above. Support for these amendments may be found in at least paragraph [0040] and FIG. 5 of the application as published. No new matter has been added.

Claims 1, 3, and 5 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 1,858,144 ("Fariello"). Additionally, claims 1 – 3, 5 – 7, 9, and 10 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 1,226,968 ("Guenther").

In addition, the Office action has objected to the drawings. Specifically, the Office action asserts that the figures fail to show the flanges formed on both ends of the band.

The Applicants respectfully request reconsideration of these rejections in view of the following remarks.

## II. Statement of Substance of Interview

In compliance with M.P.E.P. § 713.04, the Applicants provide this Statement of Substance of Interview concerning the telephonic interview conducted on May 27, 2010, between Examiner Kimberly Wood and Bryan Nese. The Applicants wish to thank the Examiner for the courtesy extended in granting this interview.

(A) Exhibits. No exhibit was shown. No demonstration was conducted.

(B) Claim. Claim 1 was discussed.

(C) Prior art. Fariello and Guenther

(D) Amendments. Those included in this paper

(E) Principal arguments of Applicant. Participants discussed the specific location of the spot weld zone, as recited in the final lines of claim 1. Examiner Wood seemed to feel that this limitation was not found in the cited references but indicated that some additional language would be necessary to give the limitation patentable weight. She suggested including language in claim 1 specifying the reason for or advantage to spot welding in the specific location. For example, spot welding the bracket to the side thirds of the band helps to improve reliability in holding the tank by reducing uneven surface pressure on the band. Examiner Wood also suggested adding language to clarify what is meant by the "width direction" of the band. Examiner Wood further indicated that she would perform a new search and would contact the Applicants' representative in the event she found new art that would render the present distinctions moot.

(F) Other matters. N/A

(G) Results. N/A

## III. Remarks Regarding the Objection to the Drawings

The Office action has objected to the drawings for allegedly failing to show the flanges formed on both ends of the band as described in paragraph [0030] of the published application.

The Applicants respectfully submit that amended FIG. 3, which adds reference characters 311 and 312 to designate the pair of flanges, overcomes this objection. In conjunction with amended FIG. 3, the Applicants request an amendment to portions of the specification in order to refer to the new reference characters.

## IV. Remarks Regarding the § 102 Rejection of Claim 1

Claim 1 as amended is patentable over the cited reference at least because it recites, in part, "the spot weld zone is provided *on at least one side portion from among both side portions of the band* when the band is divided into thirds in the width direction." Fariello fails to teach a bracket spot-welded to a location on a band outside of the center third portion of the band in the width direction, as recited by claim 1 and as shown in FIG. 5.

Nevertheless, the Office action asserts that Fariello anticipates claim 1 of the present application. We note that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Claim 1 of the present application recites a mounting structure for a heat accumulation tank, an example of which is shown in Figure A below. This structure includes an elastic member (39), wrapped around the circumference of the tank's main body, and a mounting member (30), wrapped around the outer circumferential surface of the elastic member. The mounting member further includes a band (31), which extends around the circumference of the tank's main body, and a bracket (32) attached to the band via spot welding.

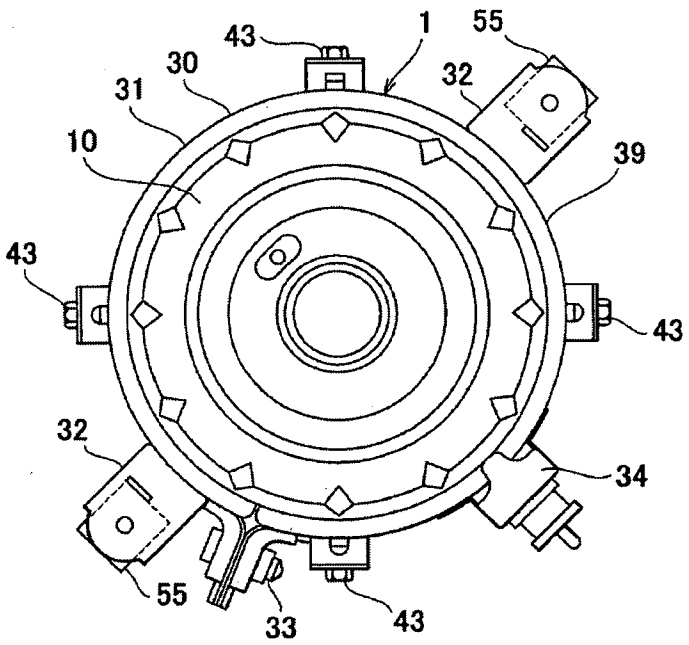


**Figure A: FIG. 4 of the Published Application**

The location for spot welding of the bracket (32) falls within a spot weld zone. This spot weld zone is preferably located outside of a major surface pressure receiving portion (36), as shown in Figure B below. In certain cases, the width of the band (31) is divided into thirds, with the major surface pressure receiving portion (36) located in the center third of the band. Thus, the bracket may be spot-welded on either of the side-third portions of the band, corresponding to the white area in Figure B.

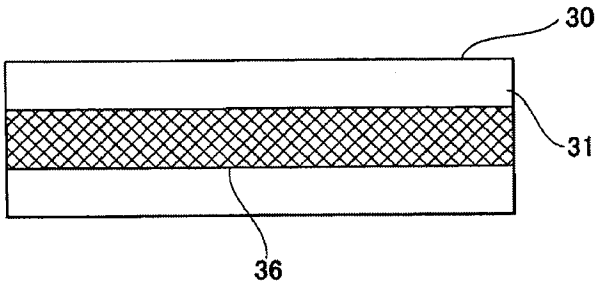


**Figure B: FIG. 5 of the Published Application**

Fariello, however, describes a jar holder, as shown in Figure C below. The holder has semi-circular gripping members (10 and 11) for gripping a jar. The holder further includes a U-

shaped member (26) that is rigidly fixed to the central portion of one of the gripping members (10).

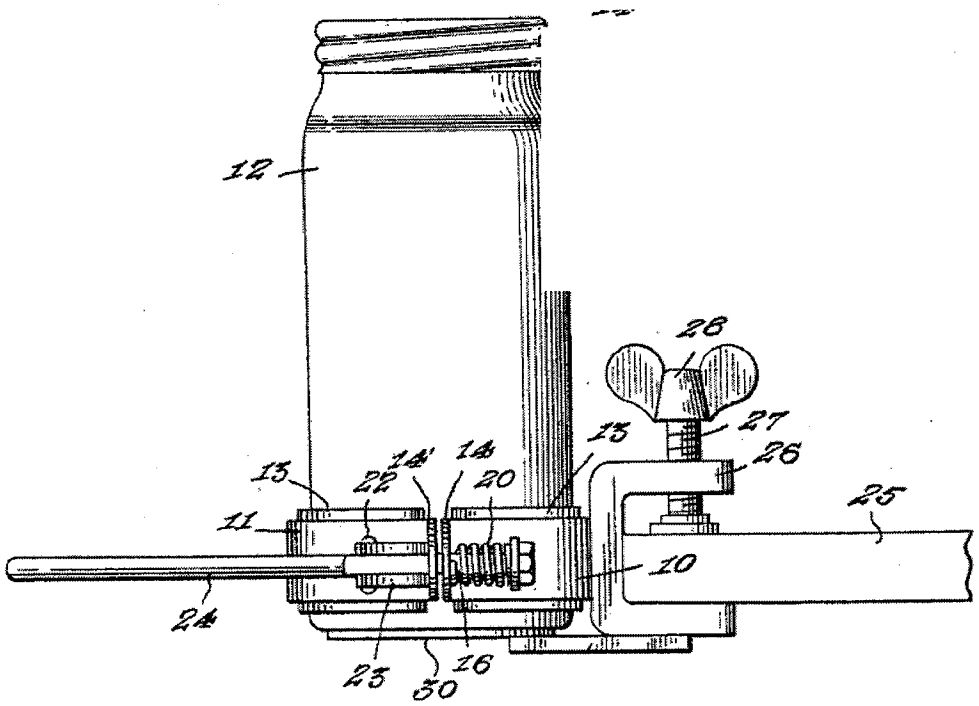


**Figure C: FIG. 2 of Fariello**

The two devices are distinct, however, as is readily apparent from a comparison of the above figures. While a tank mounting structure in accordance with claim 1 of the present invention has one or more brackets spot-welded to a particular portion of a band, the Fariello jar holder merely has a U-shaped member integrally formed attached to a gripping member. A bracket in accordance with claim 1 of the present invention is attached to the device much differently than the integrally-formed Fariello bracket. Specifically, the bracket of claim 1 is spot-welded to either side of the band outside of the center third portion of the band. Fariello, however, is completely silent on this point, mentioning only a "U-shaped member 26 which is rigid with central portion of the gripping member 10." (Fariello at p. 2, ll. 1 – 3.) Fariello fails to mention that the member is spot-welded, let alone a specific limitation requiring the member to be spot-welded to a specific location on a band. As discussed in paragraph [0040] of the

published application, spot-welding at this specific location results in a more even pressure distribution, thus improving the overall reliability of the device.

For at least these reasons, Fariello fails to teach each and every limitation recited by claim 1 of the present invention. Specifically, Fariello fails to teach a bracket spot-welded to a width of a band outside of the center third portion of the band. Accordingly, the Applicants respectfully request withdrawal of the § 102 rejection of claim 1 and all claims depending therefrom.

## V. Remarks Regarding the § 103 Rejection of Claim 1

Claim 1 as amended is patentable over the cited reference at least because it recites, in part, "the spot weld zone is provided *on at least one side portion from among both side portions of the band* when the band is divided into thirds in the width direction." Guenther fails to teach a bracket spot-welded to a width of a band outside of the center third portion of the band, as recited by claim 1 and shown in FIG. 5.

Nevertheless, the Office action has also rejected claim 1 of the present application over a modification of Guenther. As discussed in *KSR Int'l Co. v. Teleflex Inc.*, it remains necessary to identify the reason why a person of ordinary skill in the art would have been prompted to modify alleged prior art elements in the manner as claimed. 550 U.S. 398, 418 (2007). Mere conclusory statements are insufficient. *Id.*; MPEP § 2143.01(IV).

Guenther describes an improved wall-bracket for supporting fire extinguishers, as shown in Figure D below. This wall bracket includes a wall plate (1) having a longitudinal rib (3) running through its center and a clamping ring made up of a rigid portion (6) and a hinged

portion (7). Free ends (9 and 10) of each ring portion come together when the ring is closed. The ring is kept closed around the fire extinguisher using a T-pin structure (elements 14 – 17.)

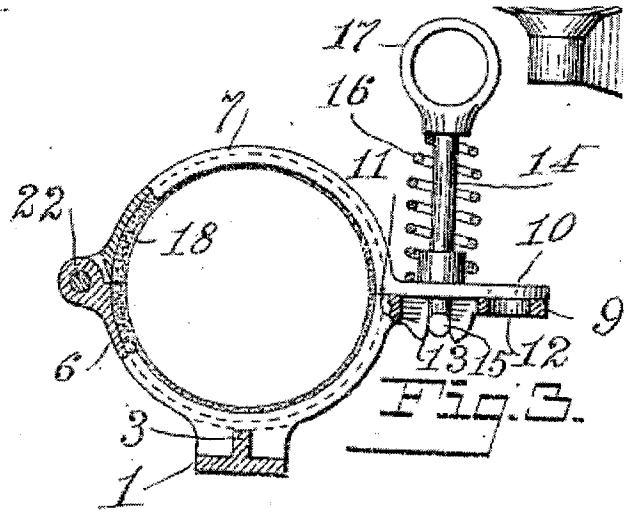


**Figure D: FIG. 3 of Guenther**

The two devices are non-trivially distinct, however. While a tank mounting structure in accordance with claim 1 of the present invention has one or more brackets spot-welded to a particular portion of a band, the Guenther fire extinguisher wall-bracket merely has a long, flat plate running longitudinally along a portion of a wall. Although the Office action contends that the wall plate of Guenther teaches the bracket recited by claim 1 of the present invention, a cursory comparison of the two structures reveals notable differences. (*Compare* L-shaped bracket 32 in FIG. 1 of the published application *with* flat plate 1 in FIG. 2 of Guenther.) Thus, Guenther fails to disclose a bracket spot-welded to either of the side third portions of the width of a band, as recited by claim 1 of the present application. Further, Guenther also fails to disclose or suggest spot-welding the bracket a the specific location of the band as recited by claim 1. As noted above, this limitation serves to aid the overall reliability of the device. Thus, the modified Guenther device fails to teach each and every limitation recited by claim 1 of the present invention. Specifically, Guenther fails to teach a bracket spot-welded to a width of a

band outside of the center third portion of the band. Accordingly, the Applicants respectfully request withdrawal of the § 103 rejection of claim 1 and all claims depending therefrom.

## CONCLUSION

In light of the above remarks, the Applicants respectfully submit that the present application is in condition for allowance. The Applicants earnestly solicit favorable reconsideration and issuance of a Notice of Allowance.

The Examiner is invited to contact the undersigned at 202.220.4256 to discuss any matter concerning this application. The Office is authorized to charge any fees related to this communication to Deposit Account No. 11-0600.

Respectfully submitted,

Date: June 2, 2010

/Daniel G. Shanley/
Daniel G. Shanley
Reg. No. 54,863

**KENYON & KENYON LLP**
1500 K Street, NW – Suite 700
Washington, DC 20005
Telephone: 202.220.4200
Facsimile: 202.220.4201
Customer No.: 23838

# APPENDIX